

PATENT

REMARKS

Claims 1-21 are pending in the application. Claims 5, 10, 15 and 20 are objected to as being dependent upon rejected base claims and the indication of allowable subject matter in such claims is noted with appreciation. Claims 1-4, 6-9, 11-14, 16-19, and 21 have been rejected.

Applicants have amended objected to claims 5, 10, 15 and 20 into independent form. Applicants have also amended claims 2-4, 7-9, 12-14, 17-19 and 21. Furthermore, Applicants have cancelled claims 1, 6, 11 and 16 for the prospective filing of one or more continuation applications.

Double Patenting Rejection Based on U.S. Patent Application No. 09/494,199

Claims 1-21 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-7, 9-13, 15-19, 21-25 of copending U.S. Patent Application No. 09/494,199. In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by agreeing to file a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR § 1.321 (b) and (c) upon the receipt of a notice of allowance of either the pending present application or the cited patent application. Applicants' filing of the terminal disclaimer should not be construed as acquiescence in the Examiner's double patenting or obviousness-type double patenting rejections.

35 U.S.C. § 103(a) Obviousness Rejections**Obviousness Rejection Based on U.S. Patent No. 6,580,699 to Manning et al.**

Claims 1-4, 6-9, 11-14, 16-19, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Manning et al. (U.S. Patent No. 6,580,699).

M.P.E.P. 706.02(j) sets forth the standard for a Section 103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or

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references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicants have cancelled claims 1, 6, 11 and 16 in view of the filing of one or more prospective continuation applications.

Objected to claims 5, 10, 15 and 20 have been amended into independent form to include all of the limitations of the base claim, namely respective claims 1, 6, 11 and 16, and any intervening claims.

Applicants have amended claims 2-4 to depend from objected to and now allowable claim 5. Accordingly, Applicants respectfully request the rejection of claims 2-4 be withdrawn.

Applicants have amended claims 7-9 to depend from objected to and now allowable claim 10. Accordingly, Applicants respectfully request the rejection of claims 7-9 be withdrawn.

Applicants have amended claims 12-14 to depend from objected to and now allowable claim 15. Accordingly, Applicants respectfully request the rejection of claims 12-14 be withdrawn.

Applicants have amended claims 17-19 to depend from objected to and now allowable claim 20. Accordingly, Applicants respectfully request the rejection of claims 17-19 be withdrawn.

Applicants have amended independent claim 21 to include similar objected to elements of objected to and now allowable claims 5, 10, 15 and 20. Accordingly, Applicants respectfully request the rejection of claim 21 be withdrawn.

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REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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